



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WAGGONER CARR
ATTORNEY GENERAL**

December 21, 1965

Mr. Joe G. Moore, Jr.
Executive Director
Texas Water Development Board
Sam Houston State Office Building
Austin, Texas

OPINION NO. C-571

Re: Tuition expense of
employees of the Texas
Water Development Board
to attend an eight day course
in earth control and inves-
tigation held by the Bureau
of Reclamation, Denver Labo-
ratories.

Dear Mr. Moore:

You request our opinion as to whether the Texas Water Development Board may pay the tuition of two employees to attend an eight day course in Earth Control and Investigation conducted at the Bureau of Reclamation, Denver Laboratories; said course includes training in soil classification, logging, and soils engineering investigations. You further advised that each of said employees has a degree in Geology and each, in his present employment with the Texas Water Development Board, is charged with the responsibility of investigating foundation geology of dams and reservoirs and you state that even though they are trained and experienced in the field, the relative uniqueness of this occupation requires continuous education in new processes, conditions, and operations.

You propose to make the \$300.00 tuition expenditure (\$150.00 per man) from your appropriation for "Water Studies and Investigations" which are designated in the appropriations bill to be used for "ground water, surface water, and chemical quality investigations; ... and shall include statistical compilations in cooperation with other government agencies ..." However, you are informed that the Comptroller of Public Accounts will not approve the tuition expense without an Attorney General's Opinion authorizing payment.

The appropriation to your department, contained in Article III, House Bill 12, Acts of the 59th Legislature, authorizes

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such expenditure unless it violates Section 51 of Article III, of the Constitution of Texas, which reads as follows:

"The Legislature shall have no power to make any grant of public moneys to any individual, association of individuals, municipal or other corporations whatsoever;"

The most recent expression of this office on this matter was contained in Attorney General's Opinion WW-505 (1958), approving a request of the General Land Office to pay the registration fees for the Chief Appraiser to attend the Southwest Appraisal Conference. Through the years many other opinions of this office authorizing expenditures for travel expense, registration and tuition fees have been issued, including, but by no means limited to WW-83 (1957) and WW-433 (1958).

In all such expressions the opinion was that Section 51 of Article III, of the Texas Constitution, prohibits the Legislature from granting or appropriating public money to an individual, but it does not prevent the Legislature from making available such funds to an individual if the use and purposes of such expenditure is for the furtherance of the governmental duties of the State, and that the expenditure of such funds for personnel to attend schools, clinics and conferences for training purposes is directly and substantially related to the performance of the State's governmental functions.

As stated in Attorney General's Opinion WW-433 (1958):

"In reviewing past Attorney General's Opinions on the same question of training of governmental personnel, it is noted that the following rules have been consistently applied to determine whether the training was such that the State could pay for it. The question asked is whether the training described will be directly and substantially used to facilitate the governmental duties and functions of the State agency requesting such training. Also, do the facts establish that there is a reasonable, substantial and direct relationship between the purpose of the training and the accomplishment of the governmental functions entrusted to the employee? (Attorney General's Opinion No. WW-83, April 1, 1957, Insurance Commission employee training at I.B.M. school, 2-week course; Attorney General's Opinion No. WW-223, September 12, 1957, Department of Public Safety employee pilot training in flight proficiency training program;

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Attorney General's Opinion No. S-209, July 20, 1956, Secretary of State employee training at I.B.M. school, 4-day course; Attorney General's Opinion No. R-2128, Department of Public Safety employee training in Police Administration at Northwestern University, 4 1/2 month course).

In applying the above rules to the fact situation that you have presented, it is the opinion of this office that the training to be provided such employees will be directly and substantially used to facilitate the administration of the governmental duties of the Texas Water Development Board and the expenditure of such funds is not prohibited under Section 51 of Article III of the Texas Constitution.

The remaining question is whether the appropriation is restricted by Section 18, Article V, House Bill 12, Acts of the 59th Legislature (Appropriations Bill); which provides:

"Restriction on Registration Fees. None of the monies appropriated in this Act may be expended for dues, registration fees or any kind of similar expense incurred in joining or attending any type of organization unless the membership is in the name of the State of Texas."

The above quoted provision of the Appropriations Bill would prohibit expenditure of such funds for such purposes only if the provision, in this situation, did in fact require registration in the name of the State of Texas and this were not complied with. It could be argued that the course of instruction conducted by the Bureau of Reclamation was a "type of organization" and the registrations must be in the name of the State of Texas if the tuition is to be paid from such appropriated funds. However, in this particular instance, inasmuch as the Bureau of Reclamation is an agency of the United States the term "organization" would not be applicable. In holding that the word "organization" did not apply to the United States, the New Hampshire Supreme Court, in the case of Farm Mutual Auto Ins. Co. v. Manson, 54 A.2d 580, 583; 94 N.H. 389; stated: "Certainly 'organization' is not commonly employed in speaking of the United States."

Therefore, it is the opinion of this office that such Section 18, of Article V, of House Bill 12, Acts of the 59th Legislature, does not require, as a prerequisite to expenditure of appropriated funds, that registration at courses conducted

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by the Bureau of Reclamation be made in the name of the State of Texas. However, there is no reason why the registrations could not be made in the name of the State of Texas.

SUMMARY

The Texas Water Development Board may pay from appropriated funds the tuition fees of two employees to attend an eight day course in Earth Control and Investigation conducted by the Bureau of Reclamation, Denver Laboratories and the registration need not be made in the name of the State of Texas, although it may be so made.

Very truly yours,

WAGGONER CARR
Attorney General of Texas

By Harold G. Kennedy
Harold G. Kennedy
Assistant Attorney General

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APPROVED:

OPINION COMMITTEE

W. V. Geppert, Chairman
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Linward Shivers

APPROVED FOR THE ATTORNEY GENERAL
By: T. B. Wright